

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION**

Gary Bernard Mixson, )  
Plaintiff, )  
v. )  
Carolyn W. Colvin, Acting Commissioner )  
of Social Security Administration, )  
Defendant. )  
\_\_\_\_\_  
)

Civil Action No.: 9:13-cv-00088-JMC

**ORDER**

This matter is before the court for a review of the Magistrate Judge's Report and Recommendation ("Report"), [ Dkt. No. 25], filed on July 19, 2013, recommending that this action be dismissed with prejudice, in accordance with Fed. R. Civ. P. 41(b) for lack of prosecution and for failure to comply with the court's orders [Dkt. No. 23] to reply to Defendant Carolyn W. Colvin, Acting Commissioner of Social Security Administration's Motion to Dismiss [Dkt. No. 22]. The Report sets forth the relevant facts and legal standards which this court incorporates herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The parties were notified of their right to file objections [Dkt. No. 25 at 4]. Plaintiff has not filed any objections to the Report.

In the absence of objections to the Magistrate Judge's Report and Recommendation, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report and Recommendation results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).

After a thorough review of the Report and Recommendation and the record in this case, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation. [Dkt. No. 25]. It is therefore **ORDERED** that Plaintiff's Complaint [Dkt. No. 1] in the above-captioned case is **DISMISSED** with prejudice, in accordance with Fed. R. Civ. P. 41(b) for lack of prosecution and for failure to comply with the court's order [Dkt. No. 23] to reply to Defendant Carolyn W. Colvin, Acting Commissioner of Social Security Administration's Motion to Dismiss [Dkt. No. 22]. It is further **ORDERED** that Defendant's Motion to Dismiss [Dkt. No. 22] is **GRANTED**.

**IT IS SO ORDERED.**



United States District Judge

August 21, 2013  
Greenville, South Carolina